

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

1925 HOOPER LLC; ROBERT J.
ARKO; and ANDREW M. MOORE;
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

NATIONAL ASSOCIATION OF
REALTORS; *et al.*,

Defendants.

Case No.: 1:23-cv-05392-MHC

Hon. Mark H. Cohen

**CONSENT MOTION TO DROP CERTAIN DEFENDANTS
WITH PREJUDICE**

Plaintiffs 1925 Hooper LLC, Robert J. Arko, and Andrew M. Moore (collectively, “Plaintiffs”) and Defendants Christie’s International Real Estate, LLC (“Christie’s”), Engel & Völkers Americas, Inc.¹ (“Engel & Völkers”), Engel & Völkers Atlanta² (“EV Atlanta”), Redfin Corporation (“Redin”), HomeSmart

¹ The caption of the case contains a misnomer by naming “Engle and Volkers Americas, Inc.” which should be spelled “Engel & Völkers Americas, Inc.” For purposes of this Motion and to avoid any doubt, Plaintiffs intend to drop Engel & Völkers Americas, Inc.

² Similarly, “Engle and Volkers Atlanta” should be spelled “Engel & Völkers Atlanta” and is the trade name for EAV, LLC. For purposes of this Motion and to avoid any doubt, Plaintiffs intend to drop EAV, LLC d/b/a Engel & Völkers Atlanta.

Holdings, Inc. (“HomeSmart”), Solid Source Realty, Inc. (“Solid Source”), Palmerhouse Properties, LLC (“Palmerhouse”), and Ansley Atlanta Real Estate, LLC (collectively, the “Settled Defendants”), by their respective undersigned attorneys, hereby respectfully move and consent to drop the Settled Defendants from this action pursuant to Federal Rule of Civil Procedure 21, and further show the Court as follows:

1. On November 22, 2023, Plaintiffs filed a Class Action Complaint in this matter alleging a nationwide conspiracy by and among the National Association of Realtors (“NAR”) and residential real estate brokerages. (Dkt. 1).

2. On December 6, 2023, Plaintiffs then filed an Amended Class Action Complaint (the “Amended Complaint”) in this matter alleging a nationwide conspiracy by and among the NAR and residential real estate brokerages, including each of the now Settled Defendants. (Dkt. 6).

3. On or about March 15, 2024, the plaintiffs in *Burnett, et al. v. The National Association of Realtors*, No. 4:19-cv-00332-SRB (W.D. Mo.) (the “*Burnett Action*”) along with plaintiffs in three other pending federal class actions filed in

Missouri³ and Illinois⁴ reached a nationwide settlement agreement to resolve all claims against the NAR that would include releases for certain other real estate brokerages meeting specific criteria (the “NAR Settlement Agreement”).

4. On April 18, 2024, the *Gibson* and *Umpa* actions were consolidated in the Western District of Missouri under Civil Action File No.: 4:23-cv-00788-SRB (the “*Gibson* Action”).

5. On April 23, 2024, the *Burnett* Court granted preliminary approval of the NAR Settlement Agreement.

6. On May 20, 2024, this Court entered an order (Dkt. 69) suspending all deadlines to answer or otherwise respond to the Amended Complaint and staying the entire case: (i) until July 19, 2024, for all defendants and (ii) through a decision on final approval of the proposed NAR Settlement Agreement for those defendants that would be “Released Parties” pursuant to its terms.

³ The Missouri actions are styled: *Burnett, et al. v. The National Association of Realtors, et al.*, Civil Action File No.: 4:19-cv-00332-SRB in the United States District Court for the Western District of Missouri; *Umpa v. The National Association of Realtors, et al.*, Civil Action File No.: 4:23-cv-00945-SRB in the United States District Court for the Western District of Missouri; and *Gibson v. The National Association of Realtors, et al.*, Civil Action File No.: 4:23-cv-00788-SRB in the United States District Court for the Western District of Missouri.

⁴ The Illinois action is styled *Moehrl, et al. v. The National Association of Realtors, et al.*, Civil Action File No.: 1:19-cv-01610-ARW in the United States District Court for the Eastern District of Illinois.

7. Specifically, the NAR Settlement Agreement provided that any residential real estate brokerage generating less than two billion dollars in total transaction volume for the year 2022 would be included as Released Parties.

8. Further, the NAR Settlement Agreement provided a formula prescribing the opt in criteria for brokerages that generated more than two billion dollars in total transaction volume for the year 2022. Those brokerages had two options: (1) agree to pay an amount equal to 0.0025 multiplied by its average annual total transaction volume for each of the most recent four calendar years; or, alternatively, (2) to participate in non-binding mediation within 110 days following preliminary approval of the NAR Settlement Agreement with the failure to reach an agreement on settlement within 130 days following preliminary approval of the NAR Settlement Agreement resulting in termination as to that brokerage's status as a "Released Party" thereunder.

9. On November 4, 2024, the *Gibson* Court granted final approval of previously reached settlement agreements with the following Settled Defendants:

Christie's,⁵ Engel & Völkers, EV Atlanta,⁶ Redfin, HomeSmart, Solid Source,⁷ Palmerhouse,⁸ and Ansley,⁹ (*Gibson*, Dkt. 530).

10. Accordingly, there are no actionable claims pending against the Settled Defendants and they should be dropped from this action on just terms pursuant to Federal Rule of Civil Procedure 21.

11. Subject to the Court's approval dropping the Settled Defendants, the remaining defendants in this action will continue to include Defendants NAR, Higher Tech Realty, LLC d/b/a Mark Spain ("Mark Spain"), Weichert of North America ("Weichert"), eXp World Holdings, Inc. ("eXp"), and ERA Franchise Systems, LLC ("ERA"), Hamilton Dorsey Alston Company, Inc. ("Dorsey Alston"), Beachum & Company, LLC ("Beachum"), Tracey Cousineau Real Estate, LLC ("Cousineau"), Sanders Realty Holdings, LLC ("Sanders"), Bolst, Inc. d/b/a The Justin Landis Group ("Justin Landis Group"), Chapman Hall Realtors, Inc.

⁵ Christie's is owned by At World Properties, LLC who also received final approval of its settlement agreement in the *Gibson* Action on November 4, 2024 and is included as a released affiliate.

⁶ EV Atlanta is an affiliate of Engel & Völkers and included as a released affiliate under the Engel & Völkers' Settlement Agreement.

⁷ Solid Source is an affiliate of HomeSmart and included under the final approval of the HomeSmart settlement agreement

⁸ Palmerhouse is also an affiliate of HomeSmart and included under the final approval of the HomeSmart settlement agreement.

⁹ Ansley is an affiliate of Christie's and also covered as a released affiliate under the At World Properties, LLC settlement agreement in the *Gibson* Action.

(“Chapman”), Signature Properties Group, Inc. (“Signature”), Method Real Estate Group, LLC d/b/a Method Real Estate Advisors (“Method”), Path & Post, LLC d/b/a Path & Post Real Estate (“Path & Post”), Duckworth Properties, LLC (“Duckworth”), Greater Atlanta Real Estate Group, LLC d/b/a Maximum One Realty (“Maximum”), Greater Atlanta Realty Holdings Corporation d/b/a Maximum One Realty (“Maximum One”), and Atlanta Communities Real Estate Brokerage, LLC (“Atlanta Communities”).

12. Counsel for the Settled Defendants consent to this Motion.¹⁰

13. Plaintiffs will submit a proposed order to this Court.

WHEREFORE, Plaintiffs respectfully move for an order dropping the Settled Defendants from this action on just terms pursuant to Federal Rule of Civil Procedure 21.

November 20, 2024

Respectfully submitted by:

/s/ Jonathan M. Palmer

Jonathan M. Palmer (Georgia No. 453452)
Bryan M. Knight (Georgia No. 142401)
Nicholas Sears (Georgia No. 491480)
W. Lawton Jordan (Georgia No. 119651)
KNIGHT PALMER, LLC
1360 Peachtree Street, Suite 1201

Consented to by:

/s/ Scott Eric Anderson

Scott Eric Anderson (Georgia No. 684513)
Jacob Scott Madsen (Georgia No. 469004)
Cameron N. Regnery (Georgia No. 333041)
FREEMAN MATHIS & GARY, LLP
100 Galleria Parkway
Suite 1600

¹⁰ No counsel of record has entered an appearance in this action on behalf of Redfin. However, Plaintiffs’ counsel conferred with counsel for Redfin and represents that Redfin consents to this Motion or otherwise has no objection.

Atlanta, Georgia 30309
P: (404) 228-4822
jpalmer@knightpalmerlaw.com
bknight@knightpalmerlaw.com
nsears@knightpalmerlaw.com
ljordan@knightpalmerlaw.com

Nathan D. Chapman (Georgia No. 244954)
Joshua Y. Joel (Georgia No. 230547)
KABAT, CHAPMAN & OZMER LLP
171 17th Street NW, Suite 1550
Atlanta, GA 30363
Direct: (404) 400-7303
Main: (404) 400-7300
nchapman@kcozlaw.com
jjoel@kcozlaw.com

Counsel for Plaintiffs

Atlanta, GA 30339
Direct: (770) 303-8678
scott.anderson@fmglaw.com
jacob.madsen@fmglaw.com
cameron.regnery@fmglaw.com

Counsel for Defendants HomeSmart Holdings, Inc., Palmerhouse Properties, LLC, and Solid Source Realty

/s/ Jonathan R. Chally
Jonathan R. Chally (Georgia No. 141392)
Katherine Leigh D'Ambrosio (Georgia No. 780128)
COUNCILL, GUNNEMANN & CHALLY, LLC
75 14th Street, NE
Suite 2475
Atlanta, GA 30309
Direct: (404) 407-5250
jchally@cgc-law.com
kdambrosio@cgc-law.com

Counsel for Defendant Engel & Völkers Americas, Inc.

s/ Ned Blumenthal
Ned Blumenthal (Georgia No. 064480)
WEISSMAN, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, GA 30326
Direct: (404) 926-4500
nedb@weissman.law

Charles Hale Van Horn (Georgia No. 724710)
Katherine Merriam Silverman (Georgia No. 395741)
BERMAN FINK VAN HORN, P.C.

3475 Piedmont Road Northeast
Suite 1640
Atlanta, GA 30305
Direct: (404) 261-7711

***Counsel for Defendant Engel & Völkers
Atlanta***

/s/ James William Cobb

James William Cobb (Georgia No. 420133)
Cameron Blaine Roberts (Georgia No.
(599839)

CAPLAN COBB, LLC

75 14th Street NE

Suite 2700

Atlanta, GA 30309

Direct: (404) 596-5601

jcobb@caplancobb.com

croberts@caplancobb.com

***Counsel for Defendants Ansley Atlanta Real
Estate, LLC and Christie's International
Real Estate, LLC***

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES AND SERVICE

In accordance with L.R. 7.1(D), I hereby certify that the foregoing was prepared in Times New Roman, 14-point font, one of the fonts specified in L.R. 5.1(C).

Submitted on November 20, 2024.

/s/ Jonathan M. Palmer

Jonathan M. Palmer

Georgia Bar No. 453452

KNIGHT PALMER, LLC

One Midtown Plaza

1360 Peachtree Street, Suite 1201

Atlanta, Georgia 30309

P: (404) 228-4822

F: (404) 228-4821

jpalmer@knightpalmerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all parties and counsel who have appeared in this action.

This 20th day of November 2024.

/s/ Jonathan M. Palmer
Jonathan M. Palmer
Georgia Bar No. 453452